**BEFORE THE**
**U.S. DEPARTMENT OF TRANSPORTATION**
**WASHINGTON, D.C.**

QA 29508

14 CFR Part 255

Computer Reservation System (CRS) Regulations

Advance Notice of Proposed Rulemaking

Docket OST-97-2881 – 53

**COMMENTS OF VARIG, S.A.**

Communications with respect to this document should be sent to:

Carlos Muzzio
General Manager, North America & Caribbean
VARIG Brazilian Airlines
380 Madison Avenue
New York, NY 10017
(212) 850-8200

Constance O'Keefe
BOROS & GAROFALO, P.C.
1201 Connecticut Ave., NW
Suite 700
Washington, DC 20036
(202) 822-9070
Attorneys for VARIG, S.A.

For Information Contact:

Kathleen McNally
Manager, Distribution Systems
VARIG Brazilian Airlines
380 Madison Avenue
New York, NY 10017
(212) 850-8366

December 9, 1997

23 pgs.

**BEFORE THE**
**U.S. DEPARTMENT OF TRANSPORTATION**
**WASHINGTON, D.C.**

| | |
|---|---|
| 14 CFR Part 255<br><br>Computer Reservation System (CRS) Regulations<br><br>Advance Notice of Proposed Rulemaking | Docket OST-97-2881 |

**COMMENTS OF VARIG, S.A.**

VARIG, S.A. (Viação Aérea Rio-Grandense) ("VARIG") hereby responds to the Department's Advance Notice of Proposed Rulemaking ("ANPRM") of September 10, 1997, 62 Fed. Reg. 47606. VARIG, which has participated in and commented on many of the Department's past examinations of CRS regulations, welcomes the opportunity to contribute to this rulemaking, and emphasizes, as it has in the past, that it believes that the rules must be continued and strengthened.[1]

---

[1] VARIG has been an active participant since the Department first undertook review of the CRS issue in 1989. VARIG filed comments on the CRS Rulemaking in Docket 46494. See November 20, 1989 Comments of VARIG; July 27, 1990 Motion for Leave to File and Supplemental Comments of VARIG; September 13, 1990 Motion for Leave to File and Additional Supplemental Comments of VARIG; June 28, 1991 Motion for Leave to File and Comments of VARIG; and March 17, 1992 Motion for Leave to File and Comments of VARIG. VARIG also filed comments in Docket 49788 on January 12, 1995 and June 27, 1995.

In preparing these comments, VARIG has focused on those of the questions posed by the Department to which it believes it can provide the most helpful responses.

> *Should the rules be continued? If so, for how long? should another review be required and, if so, when?*

VARIG urges continuation of the rules and believes that the specifics it will discuss below support the tentative conclusion of the Department that the CRS's continue "to have market power over airline participants and that the terms of airline participation are not affected by market forces." 62 Fed. Reg. 47609. The market power of the CRS's and their ability to charge airlines whatever they wish justifies continuation of the regulations. As the Department itself has stated, the fees the CRS's charge the airlines are not "disciplined by competition." 62 Fed. Reg. 47607. VARIG submits that the minimum term of revised and continued rules should be equal to that of the current rules.

> *Have the rules been effective? Are the rules adequate and appropriate in light of technological changes, changes in business conditions in the airline and travel industries, and the rise of Internet and on-line computer services that enable consumers to make bookings?*

While the rules have been effective, as VARIG discusses below, it believes that their effectiveness must be enhanced by some proposals made in the past but not yet adopted by the Department.

*Would provisions be deleted or modified and, if modified, how?*

VARIG's specific suggestions for modifications of the rules that pertain to booking fees and to passive bookings are detailed below.

*Do the changes in ownership of the systems require changes in DOT's approach to regulations or in individual rules? Should DOT reexamine its jurisdictional and analytical bases for regulating CRSs? Do the decisions by some airline owners to reduce their CRS ownership interests indicate that there is less need for CRS regulation?*

For reasons detailed more fully below, VARIG believes that the Department, as part of any basic reexamination of the CRS regulations, should keep in mind what motivated it to regulate these activities in the first instance: market power by the vendors and a detrimental effect on air transportation competition.[2]

---

[2] See e.g., Comments Air France from six years ago, which are just as accurate today as they were then:

> [G]iven the fact that abuses will develop, absent regulation, the Department should not ignore the vast, rapidly-developing field of non-airline systems. Biases could be induced in these systems with ease, without regulation and the industry would find itself, essentially, back to ground zero in a large field of unregulated CRS-type systems.
>
> Catch up, or regulation from behind the power cure, is never effective. The U.S. Government has already gone through one prolonged proceeding and is in the second prolonged rulemaking on CRS. If the field

> *Have the rules allowing travel agencies to use third-party hardware and software and to use terminals not owned by a system to access other travel databases had any impact? Should the rules be changed to make it easier for travel agencies to use third-party hardware and software and to access other databases? For example, should the exception allowing vendors to restrict the use of vendor-owned equipment be eliminated? Do one or more dominant airlines affiliated with a CRS use their market power in any regional airline market to deter or block agencies from exercising their rights under these rules? Do systems otherwise impose contract terms that unreasonably deter agencies from acquiring their own equipment or otherwise using multiple databases or systems?*

In adopting this regulation in 1992, the Department expressed great optimism that this would increase competition and prevent the need for more "detailed regulation of other CRS issues."[3] The Department also expressed its belief that in

---

> were innocent of abuses to consumer and subscriber interests, there would be no need for such proceedings. Air France urges, therefore, that the Department seriously consider the application of its CRS rules to <u>all</u> systems.... An exception to an all-inclusive rule could be those (rare) systems which display and access <u>only</u> a single carrier's flights -- a system, in other words, dedicated only to its owner's flights.

Docket 46494 at 2 and note 1 (June 24, 1991).

[3] 57 Fed. Reg. 43797. This was a common theme of the Department in 1992:

> Rather then dictate in detail how the systems must operate, we have chosen to rely in large

adopting this rule it would put a halt to practices that "hamper airline and CRS competition" and that are "contrary to the principles of the antitrust laws." 57 Fed. Reg. 43798. In particular, the Department described the vendor restrictions as "comparable to illegal tying arrangements," "similar to the kind of exclusive dealing contracts that violate the Sherman Act," and "comparable to monopolization and attempted monopolization practices prohibited under the Sherman Act." Id.

In the ANPRM of September 10, 1997, the Department described its 1992 decision thusly:

> We hoped that the rules would make it likely that travel agencies would begin using multiple systems and databases, which would

---

> part on a rule that we expect will open up competition and promote innovation and efficiency. That rule will prevent vendors from denying their subscribers the option of using hardware and software acquired from independent firms in conjunction with CRS services and the option of using agency-owned CRS terminals to access other systems and databases. Third-party hardware and software will enable agencies to operate more efficiently and obtain better information and transaction capabilities for their customers. The rule also creates the opportunity for new firms to offer travel databases to agencies and thereby break each vendor's current control over the airline information seen by its subscribers. In particular, this rule will enable carriers to set up direct links between their internal reservations systems and travel agencies and thereby create an alternative means of obtaining bookings without paying booking fees. The carriers' use of such direct links should limit the vendors' ability to charge supracompetitive booking fees.

57 Fed. Reg. at 43781.

> give airlines alternate electronic methods for providing travel agencies with information and booking capabilities and thereby create some competition for the systems.

62 Fed. Reg. 47608.

Unfortunately, the misgivings the Department of Justice expressed during the course of the last rulemaking have proven correct,[4] and the third party hardware/software rule has not had its intended effect.

The failure of the third-party rule is due in part to the discretion the Department decided to leave in the regulations to allow CRS's to limit use of equipment they supply to subscriber travel agencies. In greater part, it is due to the fact that the rules continue to allow CRS's to enter into productivity contracts with travel agencies and that the Department has declined to accept any of the suggestions made previously that would, by linking charges to airlines to actual tickets generated, work to limit abuses inspired by the productivity contracts.[5] See Exhibit A for descriptions of the travel agency

---

[4] The Justice Department asserted in its comments during the rulemaking process that "the rules on third-party products and giving agencies the right to access several systems from a single terminal will not be effective and will not solve the major CRS problems, which Justice considers to be supracompetitive booking fees and architectural bias." 57 Fed. Reg. 43796.

[5] During the previous rulemaking, Southwest warned that travel agency productivity contracts with CRS vendors would discourage agencies from using direct links to airlines, which as noted in the text, is exactly what has transpired. The Department, in dismissing Southwest's concerns, also announced its decision that it would specifically allow transaction based pricing. See 57 Fed. Reg. 43799.

perspective on productivity contracts.

Productivity agreements are a key feature of the arrangements by which, in most cases, CRS's make "free" equipment available to an agencies -- in exchange for a minimum number of bookings per terminal. Travel agencies no longer use fixed function terminals dedicated to a particular CRS, but rather sophisticated personal computers. Thus, as the Department anticipated, travel agencies are now *technically* able to access more than one system via equipment supplied to them by one particular CRS by means of adding to the PC the CRS emulation hardware and software necessary to effectuate such access. However, the CRS's have been quite liberal in offering PC's to agencies, and U.S. agencies are typically quick to accept. A CRS providing PC's to an agency can and does dictate the terms and conditions of their use: addition of the emulation hardware and software to access CRS's other than the CRS that owns the equipment is *not authorized*.

If a travel agency chooses to purchase its own PC's, in order to access any CRS, it has to enter into a contract with the CRS and pay that CRS for the data lines and terminal addresses necessary to achieve that access. These charges are often extremely steep; in many cases virtually equal to the cost of a PC. As with agencies that accept CRS hardware, any agency choosing this "independent" path might be offered a productivity contract to enable it to offset the fees for the data lines and terminal addresses. In this environment it should come as no

surprise that the third party hardware and software rule has not been successful.

Most unfortunate of all has been the fact that this rule -- in a result that the Department has stated it never intended -- has unintentionally given an airline the freedom to distribute software that biases the system in which it has the largest ownership share in favor of its flight displays to the detriment of its competitors. See Docket OST-95-430.[6]

---

[6] In its comments on the NRPM in the previous rulemaking, VARIG warned against exactly the sort of behavior the Department tried to halt in its enforcement action against AA and SABRE:

> Varig's only misgiving is related to the caution expressed in its Comments of November 20, 1989 in this Docket. VARIG notes that there is already a trend of CRS vendors supplying software to agents that introduce and create bias in the displays and allow agents to bypass the display parameter rules in favor of the particular vendor supplying the software. VARIG believes that the temptations for agents in connection with such new opportunities for introduction of bias require that the Department be particularly vigilant in the enforcement of the provision of proposed § 255.9 that prohibit practices such as linking override commissions to agency use of specialized vendor software. VARIG urges the Department to require unbiased displays in all software for distribution to travel agents. This rule should apply to all distributors of software, including airlines and/or CRS vendors. If not, the new software available under this proposal might be as or even more biased than the displays that motivated the CAB to initiate the first CRS regulations.

Comments of VARIG in Docket 46494 at 24-25 (June 28, 1991).

As the record in Docket OST 95-430 amply demonstrates, the Department's enforcement powers have not yet been able to reach the activity it found objectionable, at least in part because it had

*Do the systems' display algorithms injure airline competition and, if so, how? If so, how could we prevent those injuries without engaging in a detailed regulation of the systems' criteria for editing and ranking their displays?*

The Department by Final Rule published in the Federal Register on December 3, 1997, adopted two new rules related to displays. 62 Fed. Reg. 63837. Because VARIG offered specific examples of some of the problems these new rules are designed to alleviate in the first comments it filed in Docket 46494 in the previous CRS rulemaking (November 20, 1989), it is pleased that the Department has addressed this issue.

*Should we address the issues of booking fee levels and the structure of booking fees? If so, is there a practicable method for regulating the level of booking fees? Is there a way to bring market forces to bear on the terms of which airlines participate in CRSs?*

The Department has acknowledged that this issue is one that troubles many airlines, which "object to the continuing increases in booking fees and the airlines' inability to exert any check on those increases." 62 Fed. Reg. 47609. The Department also has noted that airlines are in the midst of disputes with the systems over "imposition of booking fees ... [that the] airlines believe are of no benefit to them." Id. In the comments that follow,

---

considered but explicitly declined to adopt suggestions made to it during the rulemaking process, specifically suggestions by Aer Lingus and VARIG.

VARIG hopes to provide the Department with information to support a booking fee rule.

Booking fee levels, at present, have no basis in cost. The Department has labelled them "supracompetitive," and noted that they are not subject to competitive forces. 62 Fed. Reg. 47607. CRS's, whenever and in whatever fashion they wish, raise booking fee levels; there are virtually no constraints. Market forces and DOT regulations together ensure that all airlines participate in all systems. The airlines are thus captive customers of vendors against which they have no recourse.

VARIG advocates adoption of cost-based booking fees. In doing so, VARIG is repeating suggestions it made in Docket 46494 on September 13, 1990, June 28, 1991 and March 17, 1992.[7] In addition to or as an alternative to a cost-based booking fee, VARIG suggests that the Department adopt a regulation that, without regulating the booking fee levels per se, should address the complaints of the carriers.[8] The Department has long

---

[7] See also Comments of Air France in Docket 46494 at 8-9 (June 24, 1991). If the Department chooses to continue to ignore this request for a cost-based booking fee, VARIG suggests that if nothing else, the Department revisit a suggestion it made in 1991 that the DOT require CRS vendors to publish, on a regular basis, a breakdown of their costs in providing CRS services. This would provide supplementary information to that currently available on CRS profits. VARIG believes that availability of such information would be a valuable addition to the debate on CRS booking fees. Such information might well put to rest concerns such as those expressed by Air France more than six years ago that the CRS's, though entitled to "reasonable profits," should not be permitted to engage in "anticompetitive or gouging behavior."

[8] VARIG understands the Department's longstanding reluctance to embrace a reasonableness standard for these supracompetitive booking fees or to involve itself in setting fees,

recognized that carriers have serious complaints with respect to booking fees.[9] Airlines have long called for more specific language with regard to what constitutes a "booking." The term "booking," as commonly used in the airline industry, is related to a purchase of transportation. Such a purchase of transportation is evidenced in one of two ways:

-- decrement of the airline's seat inventory with a resulting PNR on the airline's mainframe

-- issuance of a ticket in the name of the passenger booked.[10]

---

despite its adoption, at § 255.9(b)(1), of a prohibition of imposition of "fees in excess of commercially reasonable levels." It is for that reason that VARIG urges the Department to consider adoption of a definition of "booking" rather than adoption of a rule setting booking fees. In the past, the Department, in its lack of response to requests for a booking fee rule by Aer Lingus, VARIG and Air France, has revealed itself to be quite reluctant to set fees. However, rather than setting the fees themselves, VARIG believes that fees could be brought under control by means of a booking fee rule that only "valid" bookings can be charged to carriers.

[9] "We are aware that other CRS practices trouble many airlines .... For example, a number of airlines object to the continuing increases in booking fees and the airline's inability to exert any check on those increases" 62 Fed. Reg. 47609.

[10] Even though VARIG has in the past advocated that booking fees be tied to the issuance of tickets, see Comments in Docket 49788, it has not necessarily in its billing disputes with CRS's asserted, as have some airlines, that only bookings that result in tickets and that relate to a PNR for the ticketed passenger should be chargeable to an airline. VARIG takes the position that there are instances in which an airline derives value and has been rendered a service when a booking is made for a passenger, inventory decremented and a PNR created in one CRS and the ticket issued on another CRS. In VARIG's experience, however, the CRS's, in the context of billing disputes, will not acknowledge the validity of even this carefully limited analysis, and insist on their right to charge for bookings as they have chosen to define them in the "billing guidelines" they have adopted unilaterally and imposed upon the carriers.

Airlines have repeatedly requested that the CRS vendors consider these criteria (the mainframe PNR or the ticket) as evidence of a valid "booking." See, e.g., Comments of Aer Lingus in Docket 49788 (January 12, 1995) advocating a ticketing-based booking fee rule; Comments of Air France in Docket 49788 (April 26, 1995) supporting Aer Lingus and reiterating the ticketing-based booking fee suggestion it first made in 1991. As VARIG noted in its Reply in that same Docket on June 27, 1995, it believes that the record reveals that the airlines have made detailed comments, provided ample documentation, and suggested solutions to the problem of excessive booking fees. VARIG believes that these suggestions are worthy of serious consideration by the Department and is gratified that, in response to the America West Petition for Rulemaking in Docket OST-97-3014, the Department has stated that it now believes this issue warrants further consideration. 62 Fed. Reg. 60196. Because the Department acknowledged five years ago that this was a "valid" complaint, 62 Fed. Reg. 47608, and because the suggestions that have been made since then are both specific and workable, VARIG urges the Department to now move to correct the serious problems carriers face with the booking fees charged them by the CRS's, fees that were found five years ago to be "not disciplined by competition." Id.

> *Do the systems inappropriately charge airlines for agency transactions that are unnecessary or valueless for airlines participants? Do the systems use subscriber contract terms, such as productivity pricing, that may*

> *encourage unnecessary transactions by some agencies and lead to increased booking fee costs for airline participants? If such problems exist, should we adopt rules in this area? Parties commenting on this issue should explain why airlines can or cannot stop illegitimate or unnecessary travel agency transactions by taking action against travel agencies that choose to conduct such transactions.*

This is the issue of the "passive" bookings, about which the Department has been entertaining carrier complaints for at least seven years.[11] This problem is more subtle than it was in the past, with the CRS's now, for the most part, responding to complaints about the most abusive of the passive bookings.[12] Nevertheless, the problem persists.

A 1996 CASMA[13] Travel Industry Survey underscored the

---

[11] See, e.g., Second Supplemental Comments of Air France in Docket 46494 (August 23, 1990): "Can the Department even give credence to an allegation that passive bookings are no problem, when so many CRS users complain about it?"

[12] VARIG is pleased that since the last rulemaking, some CRS's have begun to credit airlines *who ask for such credits* for the most flagrant of the abusive bookings, *i.e.*, those for obviously fictitious names such as Mickey Mouse or Donald Duck. Of course, most of the CRS's continue to bill the carriers for these bookings in the first instance, although one CRS has informed VARIG that it has programmed its system to reject bookings for a number of the most common flagrantly abusive fictitious names. Despite the limited progress on this issue, VARIG remains concerned that this progress can be reversed at any time if the CRS's decide, by means of their unilaterally imposed billing "guidelines," that they will not grant such credits. Indeed, one CRS, which in the past had granted such credits, now insists that airlines take action directly with the offending travel agents, as required by that CRS's billing guidelines.

[13] CASMA is the Computerized Airline Sales and Marketing Association.

continuing ignorance of travel agents of these booking issues about which carriers have been complaining for so many years. Sixty percent reported that they had not received training on cost-effective use of CRS's from their CRS vendors. Only one-third of agents (33%) have been made aware of the fees the CRS's charge the airlines for every direct passenger segment they book and cancel. In addition, when travel agents were shown a list of seven types of booking activities (all of which result in charges to the airlines), only a handful (4%) knew that all seven produced charges to the carriers. On average, agents believed that only 3.3 of the listed booking activities resulted in charges to the airlines. In addition, 41% of the travel agencies surveyed believe that the minimum number of "segments booked" by the CRS subscriber contracts cannot be reached easily. Only a small number (5%) of travel agencies told the interviewers that they never make multiple bookings.

The systems routinely charge airlines for agency transactions that are unnecessary and/or valueless to the airlines. Productivity contracts tied to "bookings" produced by the agencies are the catalyst for abuse. If productivity contracts are to remain standard in the industry, they must be supplemented by a rule that ensures that a ticket related to the booking has been issued and/or that the airline charged holds a mainframe PNR related to the booking for which the fee is charged.

The following are examples of valueless transactions:

1. **Duplicate Bookings**. There are many reasons why travel agents create unnecessary duplicate bookings. In some cases duplicate bookings are unavoidable. Such a case would be when a travel agency with one CRS does the booking and a travel agent with a different CRS does the ticketing. VARIG and most airlines consider this an acceptable cost of doing business.

The following are cases in which duplicate booking charges are unnecessary and valueless:

A. A travel agency location has two or more CRS's. (This situation has become commonplace in the industry.) The travel agency duplicates passively in the second and/or third CRS most or all of the bookings that were done actively in the first CRS. The travel agency thus achieves its productivity minimums in the second and/or third CRS as well as the first, and the airlines subsidize everyone.

B. Two or more locations of a travel agency have the same CRS. In many cases, more than one location provides service to the customer. All locations can work off and share the same PNR, if the travel agent who created the original PNR releases it. Unfortunately, however, travel agents are not trained to do this by their CRS vendors; nor are they motivated to do so. They are encouraged and rewarded to do all possible to create as many bookings as their day-to-day work allows.

C. Booking passengers for several flights for the same routing on the same day and/or several classes of service.

D. Booking one passenger out of multiple gateways when

that passenger actually can and will travel on only one flight from one gateway.

E. Booking a passenger with an active booking which sends a message to the airline and decrements inventory and then subsequently duplicating the same booking as passive. Some travel agents engage in this practice routinely to drive up productivity.

F. When "shopping" for the lowest fare, the subscriber "ends transaction." This is a practice that is commonplace in the industry. Such transactions are completely unnecessary. Again, it is a question of training by the CRS's. The auto-pricing and fare-quote programs in the various CRS's do not require that a subscriber "end transaction." However, booking fees are charged and productivity credit are assigned only when this function is used.

2. **Passive Segments to Drive Invoices/Itineraries.** Airlines and travel agents alike have long called for a non-billable code for the invoices and itineraries agents produce using CRS's.[14] Travel agents are often asked by prospective customers, especially prospective groups, to issue itineraries and/or *pro forma* invoices before space is confirmed with the airlines. In such circumstances, travel agents have no ability to issue invoices or itineraries for a prospective group or for a prospective individual traveler without using a billable status

---

[14] Only SystemOne/Amadeus offers a non-billable code for invoices and itineraries.

code. Without a non-billable segment status code to drive invoices and itineraries, the travel agent is forced to create a passive booking for each segment of the itinerary of each passenger. Once the space is confirmed with the airline (and in the case of groups, space is always confirmed directly by the airline), the travel agency can use "Claim PNR," a CRS product that allows travel agencies to "claim" or retrieve bookings made directly with the airline. In circumstances where passive segments have been created to drive preliminary invoices and itineraries, the CRS charges the airline for the passive segment. If space is then confirmed by the carrier and the travel agent uses "Claim PNR" to retrieve the PNR from the airline, the airline is charged again by the CRS. The Claim PNR charge to the airline is at a premium level and is imposed in addition to the standard level fee charged for the passive segment created to drive invoices and itineraries. The "solution" of Claim PNR thus actually results in additional charges to the airlines. It is because of this common travel industry situation that airlines, especially airlines that have subscribed to the "Claim PNR" products of the CRS's, have been requesting a non-billable segment status code for invoices and itineraries. The CRS's have promoted their "Claim PNR" products to the airlines as tools that can be used to control unnecessary passive segments. However, the airlines believe that the non-billable code they have requested are necessary to give this new product true value.

3. **Training PNR's**. Training PNR's are in many instances

created in the live inventory of airlines. The initial training of many travel agencies sets this as the norm. Subsequently, those travel agents in turn train others within their agency, thus perpetuating the problem for the airlines. VARIG has been billed repeatedly for segments created at training centers at CRS headquarters. When VARIG has contacted the training centers, the segments have been cancelled. However, despite the cancellations, live inventory was decremented and CRS charges were applied. When VARIG has inquired about why the CRS's train in live inventory, it has been told that trainees work in live inventory as opposed to "training mode" because they are unable to "re-display the PNR" if it is created in the training mode. VARIG finds it hard to understand why the CRS's have not undertaken to perform the programming needed to overcome system problems that make the training mode inappropriate for training. "Bookings" created by trainees represent a real problem for airlines. If airlines were not vigilant and if they did not invest additional personnel resources in analyzing their billing data, such fees would go unnoticed and would be paid. Because the CRS's have chosen not to reprogram, the airlines must conclude that it is in the interests of the CRS vendors to allow or even encourage trainees to work in live inventory.

**CONCLUSION**

As it has in the past, VARIG suggests that the Department devote special attention to the abuses connected with productivity agreements, billings to carriers for passive "bookings" that provide no value to the airlines, and the relationship between those two.

Respectfully submitted,

Constance O'Keefe

BOROS & GAROFALO, P.C.
1201 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

Counsel for VARIG

December 9, 1997

**EXHIBIT A**

# Rising CRS Costs Hit Agents Already Hurt by Pay Cuts

**NEW YORK**—Travel agents are beginning to feel a little bit like Job, the biblical character who endures one affliction after another as a test of his faith. Just as the airline commission cuts are hitting retailers in one pocket, rising CRS costs are dipping into the other. The irony of the situation is not lost on agents; several of the major airlines have ownership stakes in the CRS companies, which means the airlines are profiting from both situations.

The reason for the rising CRS costs? Many agencies are failing to meet the segment productivity levels stipulated in their CRS contracts as they attempt to either book fewer airline tickets or book air segments through wholesalers. Another factor is the airline crackdown on passive bookings and other transactions considered unnecessary, such as duplicate, fictitious and practice bookings, and churning (repeated canceling and rebooking).

Skyway Travel Service in Ossining, N.Y., has failed to meet the segment requirements for its four CRTs for the past few months—mainly because of the crackdown on passive bookings. "It's happened since I was told we can no longer put air for tour bookings in the computer," says President Barbara Jathas.

**Double Trouble.** This means Jathas is going to be charged for each segment below the stipulated level, on top of what she already pays for the system. "I don't know what I'm going to do," she says. "They're going to send me bills I can't pay."

**Kenyon: Meeting CRS quotas continues to be a problem for agents.**

Jathas' vendor proposes that she either pay $500 a month or eliminate one of her four terminals. She says that while her agency could "learn to live" with one less CRT, she worries that the loss may have a negative effect on her agency's efficiency.

Until recently, Barbara Colombo, CTC, president of Travelogue Ltd. in Tuckahoe, N.Y., was one of those owners who didn't have to pay for her CRTs, because she consistently surpassed her requirements. "I went from having free computers to paying quite a bit more a month because of passive bookings and the whole situation with the airlines," she says.

Colombo, who hopes to renegotiate with her provider, is angry that *passive* is now a dirty word when it comes to bookings. "When you signed a contract for these computers, the vendor told you to make sure you put in all your tour bookings and flights. Now we're told we cannot do that," she says. "They told us one thing, now they're telling us something else. To put it bluntly, we're getting screwed."

Susan Tanzman, owner of Martin's Travel and Tours in Los Angeles, says agents have a right to be angry over the passive-booking issue. "We didn't create passive segments. That's the creation of the CRS vendors themselves," she says.

**Course of Action.** So what are retailers to do? Jathas would like to see the travel agency associations put pressure on the CRS vendors to sit down and work out a solution. ASTA, to its credit, demanded that CRS vendors open their contracts for immediate renegotiation and has organized a group of travel lawyers who will help agents through the arbitration process for a reduced fee.

The Society also has put together the CRS Cost Reduction Task Force, though the group is on hiatus because the commission cuts have taken precedence. But ASTA is certainly aware that the CRS situation is important. Says Stephanie Kenyon, ASTA's vice president of industry affairs and travel technology: "We've heard from our members that it continues to be a problem" for them to hit their quotas.

In response, SABRE admits to a slight increase in shortfalls since July, according to spokesman David Nieland, "primarily due to airlines, agents and CRSs' efforts to better manage the use of passive segments, waitlists and duplicate bookings." But because of the crackdown, he adds, car, hotel, tour and cruise bookings are up sharply. SABRE agents receive two credits for each tour PNR they book and four credits for every cruise booking. Next year SABRE will introduce a booking product for smaller agencies that will require a lower productivity level.

Worldspan has been encouraging agents to make more non-air bookings. "If you want to meet your thresholds, train your agents to book tours through the system," says spokesman Greg Hammer. To that end, Worldspan is introducing a new booking scheme for tours. Under the old system, agents received one credit per tour passenger, with a maximum of nine credits. Under the new program, agents receive five credits for any tour PNR that contains up to five passengers, so the minimum number of credits received for a tour booking is five instead of one. In terms of air bookings, Hammer says that Worldspan agents are using the Claim PNR function more, which allows them to take over a booking made by the airline. "That reduces the need for passive segments, and agents get credit for it as well," he says.

Despite these changes, many agents claim that since the airlines have lowered the boom on passive

*Continued on page 136*

## F.Y.I.

**✔ SANDALS BRAND?**
Is another Sandals brand in the works? Insiders suggest that the all-inclusive's takeover of Jamaica's Poinciana Beach Resort could mark the start of a moderately priced brand that would be positioned below the upscale Beaches.

**✔ INSIDE MOVES**
Bob Blumberg, senior vice president at Certified Vacations overseeing Delta Vacations, has left the company, but no replacement has been named...Diane DeRose, vice president-marketing communications for Cunard, won't be moving with the line to Miami. DeRose, who joined Cunard only four months ago after serving as director of travel industry marketing for Visa, is leaving to seek other opportunities. Mariniki Vlastara, Cunard's executive vice president-marketing planning, will take on DeRose's responsibilities...Jerry Inzerello, director of operations for Ian Schrager's hotels, is leaving to rejoin Sol Kerzner's Sun International as head of public affairs in the New York office. Inzerello previously worked for Kerzner at his Sun City property in South Africa.

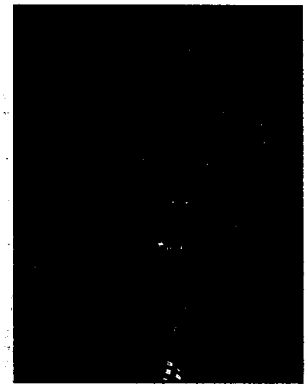
**✔ NEW AIR CLASSES**
Look for TACA Group, the alliance of five Central American carriers, to introduce a new unified business-class product, corporate identity and paint scheme...Finnair may reconfigure its two-class trans-Atlantic fleet into a business class, premium economy and a discounted economy class, though a Finnair spokesman won't confirm it.

LEGAL BRIEFS

# Subtraction by Addition: Extra CRTs Can Cost You

BY MARK PESTRONK

**Q:** My travel agency's CRS vendor has suggested that we add a CRT at one of our offices, explaining that we could probably generate a sufficient number of new bookings that would enable us to waive the monthly fees for the extra CRT.



I am worried that if we do not increase our bookings, we will incur hefty monthly penalties.

Am I right to be worried?

**A:** If you have Sabre or Apollo, which the majority of agencies have, you should be very worried.

Under those vendors' pricing formulas, just one extra, unproductive CRT could cost you upwards of $47,000 over the next five years.

To understand how this is possible, we have to delve into the dark underside of productivity pricing.

With Worldspan and Amadeus, if you do not meet your quota, all you owe is a percentage of the monthly rack rate.

For example, if your bookings are 10% below the yearly quota, you might owe 10% of the rack rate for that month.

However, with Sabre and Apollo, you pay a penalty for each booking on each CRT below the quota.

Sabre's penalty is relatively simple: You pay about $3.05 for each booking below the quota found in the Cluster Amendment for your multilocation agency.

For example, if your quota is 260, covering 40 CRTs each now doing 260 bookings, and if you add a 41st CRT without increasing your bookings, you will owe a penalty of $793 (260 multiplied by $3.05) per month, or $47,580 over 60 months.

Apollo's formula is more complicated than Sabre's: Each time you add equipment, you must add the number of bookings times the Target Ratio in your contract that was initially derived by taking your original contract quota divided by the original rack rate.

For each added booking that you do not achieve, you will owe $2.40 under the latest Apollo contracts.

For example, if you add a CRT with a rack rate of $195 per month, and if your Target Ratio is 1.3, you must add 253.5 bookings per month.

If you add no more bookings, your penalty will be $608.40 (253.5 multiplied by $2.40) per month, or $36,504 over 60 months.

Therefore, to avoid being a victim of this kind of price gouging, do not add any equipment unless you are absolutely sure you will have the extra bookings to make it free.

---

*Mark Pestronk, based in Fairfax, Va., is an attorney specializing in travel law.*